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SENATE

S.B. No. 2626

RECEIVED BY: 

INTRODUCED BY SENATOR RISA HONTIVEROS

**AN ACT
AUTHORIZING THE CITY OR MUNICIPAL CIVIL REGISTRAR AND THE
CONSUL GENERAL TO CHANGE THE SEX AND THE FIRST NAME OF AN
INTERSEX PERSON APPEARING IN THE CIVIL REGISTER WITHOUT THE
NEED OF A JUDICIAL ORDER, AMENDING FOR THIS PURPOSE REPUBLIC
ACT NO. 9048 AND REPUBLIC ACT NO. 10172**

EXPLANATORY NOTE

On September 12, 2008, the Supreme Court, in Republic of the Philippines v. Jennifer Cagandahan (G.R. No. 166676), allowed Cagandahan to change the entry on his civil register from female to male on the basis of him being and intersex having developed a secondary male characteristics and was diagnosed to have Congenital Adrenal Hyperplasia (CAH). In the case, the Court opined that, "Respondent is the one who has to live with his intersex anatomy. To him belongs the human right to the pursuit of happiness and of health. Thus, to him should belong the primordial choice of what courses of action to take along the path of his sexual development and maturation. In the absence of evidence that respondent is an "incompetent" and in the absence of evidence to show that classifying respondent as a male will harm other members of society who are equally entitled to protection under the law, the Court affirms as valid and justified the respondent's position and his personal judgment of being a male.

In so ruling we do no more than give respect to (1) the diversity of nature; and (2) how an individual deals with what nature has handed out. In other words, we respect respondent's congenital condition and his mature decision to be a male. Life is already difficult for the ordinary person. We cannot but respect how respondent deals with his unordinary state and thus help make his life easier, considering the unique circumstances in this case."

In the same decision the Supreme Court allowed the change in the name of the Jennifer Cagandahan to Jeff Cagandahan, saying that "The trial court's grant of

respondent's change of name from Jennifer to Jeff implies a change of a feminine name to a masculine name. Considering the consequence that respondent's change of name merely recognizes his preferred gender, we find merit in respondent's change of name. Such a change will conform with the change of the entry in his birth certificate from female to male."

To date, while the intersex people celebrate the Court decision, most of them cannot avail of the remedy themselves as they still need to undergo the costly and tedious court litigation.

In March 2001, Republic Act No. 9048 was enacted with the goal of affording Filipinos the accessibility and efficiency to correct clerical and typographical errors in an entry or to change first names in local civil registry offices without the need for a judicial order. In July 2011, the law was amended to include other clerical and typographical errors and mistakes which include the sex of a person appearing in the civil register. While these laws authorize changes in civil register entries and first names or nicknames, they do not explicitly address the unique circumstances of intersex individuals.

This bill aims to rectify this oversight by providing a straightforward and accessible legal process for intersex individuals to change their sex and first names in the civil register without the need for a judicial order. This proposed legislation shall promote efficiency and inclusivity within the civil registration system, ensuring that intersex individuals are not burdened with costly and time-consuming court litigation. It acknowledges the importance of respecting an individual's right to self-determination and privacy regarding their gender identity and personal information.

In line with the recent developments and recognition of the rights of intersex individuals to self-determination as upheld by the Supreme Court, this bill seeks to affirm the de jure rights of Filipinos with intersex conditions to correcting the clerical errors on their civil registry documents.

In view of the foregoing, the immediate passage of this bill is sought.


RISA HONTIVEROS
Senator

1 No person shall be subject to any form of discrimination, stigmatization, or
2 marginalization. It shall therefore intensify its efforts to fulfill its duties under the Equal
3 Protection Clause and Bill of Rights provisions of the Philippine Constitution, and
4 international and domestic laws to respect, protect, and fulfill the rights and dignity of
5 every individual.

6 Furthermore, the State recognizes the fundamental freedom of its citizens to
7 determine choices as long as they do not harm other members of society who are
8 equally entitled to protection under the law.”

9 Sec. 3. Section 2 of the Act, as amended, is likewise renumbered and further
10 amended to read as follows:

11 “Section 2. 3. Definition of Terms. – As used in this Act, the following terms shall
12 mean:

13 (1) xxx xxx

14 (2) xxx xxx

15 (3) ‘Clerical or typographical error’ refers to a mistake committed in the performance
16 of clerical work in writing, copying, transcribing or typing an entry in the civil register
17 that is harmless and innocuous, such as misspelled name or misspelled place of birth,
18 mistake in the entry of day and month in the date of birth or the sex of the person or
19 the like, which is visible to the eyes or obvious to the understanding, and can be
20 corrected or changed only by reference to other existing record or records: Provided,
21 however, That no correction must involve the change of nationality, age, or status of
22 the petitioner; Provided, further, that the correction of sex and/or first name shall be
23 made de jure applicable to intersex people of legal age due to the inborn nature of
24 their medical condition.

25 (4) xxx xxx

26 (5) xxx xxx

27 (6) xxx xxx

28 (7) "Intersex" is an umbrella term used to describe a wide range of innate bodily
29 variations in sex characteristics. Intersex people are born with physical sex
30 characteristics (such as sexual anatomy, reproductive organs, hormonal patterns,
31 and/or chromosomal patterns) that do not fit typical definitions for male or female
32 bodies.

1 (8) "Sex characteristics" refers to the chromosomal, gonadal and anatomical features
2 of a person, which include primary characteristics such as reproductive organs and
3 genitalia and/or in chromosomal structures and hormones; and secondary
4 characteristics such as muscle mass, hair distribution, breasts and/or structure."

5 Sec. 4. Section 4 of the Act, as amended, is hereby renumbered and further
6 amended to read as follows:

7 "Section 4 5. Grounds for Change of First Name or Nickname. – The petition for
8 change of first name or nickname may be allowed in any of the following cases:

9 (1) xxx xxx

10 (2) xxx xxx

11 (3) xxx xxx

12 (4) For intersex people, the correction of sex and/or first name shall be made de jure
13 applicable due to the inborn nature of their medical condition; Provided, that they are
14 of legal age."

15 Sec. 5. Section 5 of the Act. as amended, is hereby renumbered and further
16 amended to read as follows:

17 "Section 5. Form and Contents of the Petition. – The petition for correction of a clerical
18 or typographical error, or for change of first name or nickname, as the case may be,
19 shall be in the form of an affidavit, subscribed and sworn to before any person
20 authorized by law to administer oaths. The affidavit shall set forth facts necessary to
21 establish the merits of the petition and shall show affirmatively that the petitioner is
22 competent to testify to the matters stated. The petitioner shall state the particular
23 erroneous entry or entries, which are sought to be corrected and/or the change sought
24 to be made.

25 The petition shall be supported with the following documents:

26 (1) A certified true machine copy of the certificate or of the page of the registry book
27 containing the entry or entries sought to be corrected or changed;

28 (2) At least two (2) public or private documents showing the correct entry or entries
29 upon which the correction or change shall be based; and

30 (3) Other documents which the petitioner or the city or municipal civil registrar or the
31 consul general may consider relevant and necessary for the approval of the petition.

1 No petition for correction of erroneous entry concerning the date of birth or the sex
2 of a person shall be entertained except if the petition is accompanied by earliest school
3 record or earliest school documents such as, but not limited to, medical records,
4 baptismal certificate and other documents issued by religious authorities nor shall any
5 entry involving change of gender corrected except if the petition is accompanied by a
6 certification issued by an accredited government physician attesting to the fact that
7 the petitioner has not undergone sex change or sex transplant. For petition for
8 correction of erroneous entry concerning the sex or gender of an intersex person, the
9 application shall be supported by a medical certificate from a competent and licensed
10 physician attesting to the presence of an intersex characteristic or trait in the applicant.
11 The petition for change of first name or nickname, or for correction of erroneous entry
12 concerning the day and month in the date of birth or the sex of a person, as the case
13 may be, shall be published at least once a week for two (2) consecutive weeks in a
14 newspaper of general circulation.

15 Furthermore, the petitioner shall submit a certification from the appropriate law
16 enforcements, agencies that he has no pending case or no criminal record.

17 The petition and its supporting papers shall be filed in three (3) copies to be distributed
18 as follows: first copy to the concerned city or municipal civil registrar, or the consul
19 general; second copy to the Office of the Civil Registrar General; and third copy to the
20 petitioner."

21 Sec. 6. A new Section 10 is hereby inserted in the Act, as amended, and shall
22 read as follows:

23 "Section 10. Confidentiality Clause. – All records and information related to the
24 correction of clerical or typographical errors in the civil register and changes of first
25 names or nicknames shall be treated with the utmost confidentiality. Civil registrars,
26 officials, and employees involved in the process shall ensure the non-disclosure of
27 sensitive personal information except as required by law or with the express consent
28 of the individual concerned."

29 Sec. 7. All subsequent Sections of Republic Act No. 9048, as amended, shall
30 hereafter be renumbered accordingly.

1 Sec. 8. Separability Clause. – If any provision of this Act shall at any time be
2 found to be unconstitutional or invalid, the remainder thereof not affected by such
3 declaration shall remain in full force and effect.

4 Sec. 9. Repealing Clause. – Any laws, decrees, rules or regulations inconsistent
5 with the provisions of this Act are hereby repealed or modified accordingly.

6 Sec. 10. Effectivity Clause. – This Act shall take effect fifteen (15) days after its
7 publication in the Official Gazette or in at least two (2) newspapers of general
8 circulation.

Approved,